



Senate

General Assembly

File No. 674

January Session, 2017

Substitute Senate Bill No. 979

Senate, April 20, 2017

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NOTIFICATION TO SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION OF RESTRAINING ORDERS, CIVIL PROTECTION ORDERS AND STANDING CRIMINAL PROTECTIVE ORDERS AFFECTING STUDENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (h) of section 46b-15 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2018*):

4 (h) (1) The applicant shall cause notice of the hearing pursuant to
5 subsection (b) of this section and a copy of the application and the
6 applicant's affidavit and of any ex parte order issued pursuant to
7 subsection (b) of this section to be served on the respondent not less
8 than three days before the hearing. The cost of such service shall be
9 paid for by the Judicial Branch.

10 (2) When (A) an application indicates that a respondent holds a
11 permit to carry a pistol or revolver, an eligibility certificate for a pistol

12 or revolver, a long gun eligibility certificate or an ammunition
13 certificate or possesses one or more firearms or ammunition, and (B)
14 the court has issued an ex parte order pursuant to this section, the
15 proper officer responsible for executing service shall, whenever
16 possible, provide in-hand service and, prior to serving such order,
17 shall (i) provide notice to the law enforcement agency for the town in
18 which the respondent will be served concerning when and where the
19 service will take place, and (ii) send, or cause to be sent by facsimile or
20 other means, a copy of the application, the applicant's affidavit, the ex
21 parte order and the notice of hearing to such law enforcement agency,
22 and (iii) request that a police officer from the law enforcement agency
23 for the town in which the respondent will be served be present when
24 service is executed by the proper officer. Upon receiving a request
25 from a proper officer under the provisions of this subdivision, the law
26 enforcement agency for the town in which the respondent will be
27 served may designate a police officer to be present when service is
28 executed by the proper officer.

29 (3) Upon the granting of an ex parte order, the clerk of the court
30 shall provide two copies of the order to the applicant. Upon the
31 granting of an order after notice and hearing, the clerk of the court
32 shall provide two copies of the order to the applicant and a copy to the
33 respondent. Every order of the court made in accordance with this
34 section after notice and hearing shall be accompanied by a notification
35 that is consistent with the full faith and credit provisions set forth in 18
36 USC 2265(a), as amended from time to time. Immediately after making
37 service on the respondent, the proper officer shall (A) send or cause to
38 be sent, by facsimile or other means, a copy of the application, or the
39 information contained in such application, stating the date and time
40 the respondent was served, to the law enforcement agency or agencies
41 for the town in which the applicant resides, the town in which the
42 applicant is employed and the town in which the respondent resides,
43 and (B) as soon as possible, but not later than two hours after the time
44 that service is executed, input into the Judicial Branch's Internet-based
45 service tracking system the date, time and method of service. If, prior
46 to the date of the scheduled hearing, service has not been executed, the

47 proper officer shall input into such service tracking system that service
48 was unsuccessful. The clerk of the court shall send, by facsimile or
49 other means, a copy of any ex parte order and of any order after notice
50 and hearing, or the information contained in any such order, to the law
51 enforcement agency or agencies for the town in which the applicant
52 resides, the town in which the applicant is employed and the town in
53 which the respondent resides, within forty-eight hours of the issuance
54 of such order. If the victim, or victim's minor child protected by such
55 order, is enrolled in a public or private elementary or secondary
56 school, including a technical high school, or an institution of higher
57 education, as defined in section 10a-55, the clerk of the court shall,
58 upon the request of the victim, send, by facsimile or other means, a
59 copy of such ex parte order or of any order after notice and hearing, or
60 the information contained in any such order, to such school or
61 institution of higher education, the president of any institution of
62 higher education at which the victim, or victim's minor child protected
63 by such order, is enrolled and the special police force established
64 pursuant to section 10a-156b, if any, at the institution of higher
65 education at which the victim, or victim's minor child protected by
66 such order, is enrolled, if the victim provides the clerk with the name
67 and address of such school or institution of higher education.

68 Sec. 2. Subsection (d) of section 46b-16a of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective*
70 *January 1, 2018*):

71 (d) The applicant shall cause notice of the hearing pursuant to
72 subsection (b) of this section and a copy of the application and the
73 applicant's affidavit and of any ex parte order issued pursuant to
74 subsection (b) of this section to be served by a proper officer on the
75 respondent not less than five days before the hearing. The cost of such
76 service shall be paid for by the Judicial Branch. Upon the granting of
77 an ex parte order, the clerk of the court shall provide two copies of the
78 order to the applicant. Upon the granting of an order after notice and
79 hearing, the clerk of the court shall provide two copies of the order to
80 the applicant and a copy to the respondent. Every order of the court

81 made in accordance with this section after notice and hearing shall be
82 accompanied by a notification that is consistent with the full faith and
83 credit provisions set forth in 18 USC 2265(a), as amended from time to
84 time. Immediately after making service on the respondent, the proper
85 officer shall (1) send or cause to be sent, by facsimile or other means, a
86 copy of the application, or the information contained in such
87 application, stating the date and time the respondent was served, to
88 the law enforcement agency or agencies for the town in which the
89 applicant resides, the town in which the applicant is employed and the
90 town in which the respondent resides, and (2) as soon as possible, but
91 not later than two hours after the time that service is executed, input
92 into the Judicial Branch's Internet-based service tracking system the
93 date, time and method of service. If, prior to the date of the scheduled
94 hearing, service has not been executed, the proper officer shall input
95 into such service tracking system that service was unsuccessful. The
96 clerk of the court shall send, by facsimile or other means, a copy of any
97 ex parte order and of any order after notice and hearing, or the
98 information contained in any such order, to the law enforcement
99 agency or agencies for the town in which the applicant resides, the
100 town in which the applicant is employed and the town in which the
101 respondent resides, not later than forty-eight hours after the issuance
102 of such order, and immediately to the Commissioner of Emergency
103 Services and Public Protection. If the applicant is enrolled in a public
104 or private elementary or secondary school, including a technical high
105 school, or an institution of higher education, as defined in section 10a-
106 55, the clerk of the court shall, upon the request of the applicant, send,
107 by facsimile or other means, a copy of such ex parte order or of any
108 order after notice and hearing, or the information contained in any
109 such order, to such school or institution of higher education, the
110 president of any institution of higher education at which the applicant
111 is enrolled and the special police force established pursuant to section
112 10a-142, if any, at the institution of higher education at which the
113 applicant is enrolled, if the applicant provides the clerk with the name
114 and address of such school or institution of higher education.

115 Sec. 3. Subsection (d) of section 46b-38c of the general statutes is

116 repealed and the following is substituted in lieu thereof (*Effective*
117 *January 1, 2018*):

118 (d) In all cases of family violence, a written or oral report that
119 indicates whether the parties in the family violence case are parties to a
120 case pending on the family relations docket of the Superior Court and
121 includes recommendation of the local family violence intervention unit
122 shall be available to a judge at the first court date appearance to be
123 presented at any time during the court session on that date. A judge of
124 the Superior Court may consider and impose the following conditions
125 to protect the parties, including, but not limited to: (1) Issuance of a
126 protective order pursuant to subsection (e) of this section; (2)
127 prohibition against subjecting the victim to further violence; (3) referral
128 to a family violence education program for persons who commit acts
129 of family violence; and (4) immediate referral for more extensive case
130 assessment. Such protective order shall be an order of the court, and
131 the clerk of the court shall cause (A) a copy of such order to be sent to
132 the victim, and (B) a copy of such order, or the information contained
133 in such order, to be sent by facsimile or other means within forty-eight
134 hours of its issuance to the law enforcement agency for the town in
135 which the victim resides and, if the defendant resides in a town
136 different from the town in which the victim resides, to the law
137 enforcement agency for the town in which the defendant resides. If the
138 victim is employed in a town different from the town in which the
139 victim resides, the clerk of the court shall, upon the request of the
140 victim, send, by facsimile or other means, a copy of such order, or the
141 information contained in such order, to the law enforcement agency
142 for the town in which the victim is employed not later than forty-eight
143 hours after the issuance of such order. If the victim is enrolled in a
144 public or private elementary or secondary school, including a technical
145 high school, or an institution of higher education, as defined in section
146 10a-55, the clerk of the court shall, upon the request of the victim, send,
147 by facsimile or other means, a copy of such order, or the information
148 contained in such order, to such school or institution of higher
149 education, the president of any institution of higher education at
150 which the victim is enrolled and the special police force established

151 pursuant to section 10a-156b, if any, at the institution of higher
152 education at which the victim is enrolled, if the victim provides the
153 clerk with the name and address of such school or institution of higher
154 education.

155 Sec. 4. Subsection (b) of section 53a-40e of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective*
157 *January 1, 2018*):

158 (b) Such standing criminal protective order may include, but need
159 not be limited to, provisions enjoining the offender from (1) imposing
160 any restraint upon the person or liberty of the victim; (2) threatening,
161 harassing, assaulting, molesting, sexually assaulting or attacking the
162 victim; or (3) entering the family dwelling or the dwelling of the
163 victim. If the victim is enrolled in a public or private elementary or
164 secondary school, including a technical high school, or an institution of
165 higher education, as defined in section 10a-55, the clerk of the court
166 shall, upon the request of the victim, send, by facsimile or other means,
167 a copy of such standing criminal protective order, or the information
168 contained in any such order, to such school or institution of higher
169 education, the president of any institution of higher education at
170 which the victim is enrolled and the special police force established
171 pursuant to section 10a-142, if any, at the institution of higher
172 education at which the victim is enrolled, if the victim provides the
173 clerk with the name and address of such school or institution of higher
174 education.

175 Sec. 5. Subsection (a) of section 54-1k of the general statutes is
176 repealed and the following is substituted in lieu thereof (*Effective*
177 *January 1, 2018*):

178 (a) Upon the arrest of a person for a violation of subdivision (1) or
179 (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70c,
180 53a-71, 53a-72a, 53a-72b or 53a-73a, or any attempt thereof, or section
181 53a-181c, 53a-181d or 53a-181e, the court may issue a protective order
182 pursuant to this section. Upon the arrest of a person for a violation of
183 section 53a-182b or 53a-183, the court may issue a protective order

184 pursuant to this section if it finds that such violation caused the victim
185 to reasonably fear for his or her physical safety. Such order shall be an
186 order of the court, and the clerk of the court shall cause (1) a copy of
187 such order, or the information contained in such order, to be sent to
188 the victim, and (2) a copy of such order, or the information contained
189 in such order, to be sent by facsimile or other means not later than
190 forty-eight hours after its issuance to the law enforcement agency or
191 agencies for the town in which the victim resides, the town in which
192 the victim is employed and the town in which the defendant resides. If
193 the victim is enrolled in a public or private elementary or secondary
194 school, including a technical high school, or an institution of higher
195 education, as defined in section 10a-55, the clerk of the court shall,
196 upon the request of the victim, send, by facsimile or other means, a
197 copy of such order, or the information contained in such order, to such
198 school or institution of higher education, the president of any
199 institution of higher education at which the victim is enrolled and the
200 special police force established pursuant to section 10a-156b, if any, at
201 the institution of higher education at which the victim is enrolled, if
202 the victim provides the clerk with the name and address of such school
203 or institution of higher education.

204 Sec. 6. Section 54-82q of the general statutes is amended by adding
205 subsection (g) as follows (*Effective January 1, 2018*):

206 (NEW) (g) If the protected witness is enrolled in a public or private
207 elementary or secondary school, including a technical high school, or
208 an institution of higher education, as defined in section 10a-55, the
209 clerk of the court shall, upon the request of the protected witness, send,
210 by facsimile or other means, a copy of such temporary restraining
211 order, or the information contained in any such order, to such school
212 or institution of higher education, the president of any institution of
213 higher education at which the protected witness is enrolled and the
214 special police force established pursuant to section 10a-142, if any, at
215 the institution of higher education at which the protected witness is
216 enrolled, if the protected witness provides the clerk with the name and
217 address of such school or institution of higher education.

218 Sec. 7. Subsection (a) of section 54-82r of the general statutes is
 219 repealed and the following is substituted in lieu thereof (*Effective*
 220 *January 1, 2018*):

221 (a) Upon application of a prosecutorial official, a court may issue a
 222 protective order prohibiting the harassment of a witness in a criminal
 223 case if the court, after a hearing at which hearsay evidence shall be
 224 admissible, finds by a preponderance of the evidence that harassment
 225 of an identified witness in a criminal case exists or that such order is
 226 necessary to prevent and restrain the commission of a violation of
 227 section 53a-151 or 53a-151a. Any adverse party named in the complaint
 228 has the right to present evidence and cross-examine witnesses at such
 229 hearing. Such order shall be an order of the court, and the clerk of the
 230 court shall cause a certified copy of such order to be sent to the
 231 witness, and a copy of such order, or the information contained in such
 232 order, to be sent by facsimile or other means within forty-eight hours
 233 of its issuance to the appropriate law enforcement agency. If the
 234 protected witness is enrolled in a public or private elementary or
 235 secondary school, including a technical high school, or an institution of
 236 higher education, as defined in section 10a-55, the clerk of the court
 237 shall, upon the request of the protected witness, send, by facsimile or
 238 other means, a copy of such protective order, or the information
 239 contained in any such order, to such school or institution of higher
 240 education, the president of any institution of higher education at
 241 which the protected witness is enrolled and the special police force
 242 established pursuant to section 10a-142, if any, at the institution of
 243 higher education at which the protected witness is enrolled, if the
 244 protected witness provides the clerk with the name and address of
 245 such school or institution of higher education.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2018</i>	46b-15(h)
Sec. 2	<i>January 1, 2018</i>	46b-16a(d)
Sec. 3	<i>January 1, 2018</i>	46b-38c(d)
Sec. 4	<i>January 1, 2018</i>	53a-40e(b)

Sec. 5	<i>January 1, 2018</i>	54-1k(a)
Sec. 6	<i>January 1, 2018</i>	54-82q
Sec. 7	<i>January 1, 2018</i>	54-82r(a)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes changes to statute that govern the court's notification to schools or institutions of higher education for certain protection orders and does not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 979*****AN ACT CONCERNING NOTIFICATION TO SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION OF RESTRAINING ORDERS, CIVIL PROTECTION ORDERS AND STANDING CRIMINAL PROTECTIVE ORDERS AFFECTING STUDENTS.*****SUMMARY**

This bill makes changes to laws that govern the court's notification to schools or institutions of higher education when it issues certain protection orders.

Under current law, a court, upon the request of a victim, must notify the victim's school or institution of higher education when it issues a civil restraining order, civil protection order, family violence protective order, or criminal protective order (see BACKGROUND). The bill, instead, requires the court to do so only if the applicant provides the court with the school's or institution's name and address.

For civil restraining orders, the bill additionally requires the court to provide such notice under the conditions described above, to the school or institution in which the victim's minor child protected by the order is enrolled.

The bill also expands the court's duty to provide court notification to schools or institutions of higher education by requiring the court to do so, under the conditions described above, when it issues standing criminal protection orders and orders prohibiting harassment of a witness in a criminal case (see BACKGROUND). Such notices are not required in these cases under current law.

EFFECTIVE DATE: January 1, 2018

COURT NOTIFICATION

Under current law, if a victim protected by a civil restraining order, civil protection order, family violence protective order, or criminal protective order is enrolled in a public or private elementary or secondary school, including a technical high school, or an institution of higher education, the court must, upon the request of the victim, send, by fax or other means, a copy of the order, or the information contained in it, to the:

1. school or institution of higher education at which the victim is enrolled;
2. president of the institution of higher education; and
3. special police force, if any, at the institution of higher education.

BACKGROUND

Civil Restraining Order

A family or household member may apply for a civil restraining order for relief from physical abuse, stalking, or a pattern of threatening from another family or household member (CGS § 46b-15).

Civil Protection Order

A victim of sexual abuse, sexual assault, or stalking may apply for a civil protection order if he or she is not eligible for the restraining order described above (CGS § 46b-16a).

Family Violence Protective Order

In a family violence case, at the recommendation of the family relations office or the State's Attorney's Office, a court may issue a family violence protection order to protect a victim from threats, harassment, injury, or intimidation. This order is issued at the time of arraignment during a criminal proceeding (CGS § 46b-38c).

Criminal Protective Orders

Courts may independently issue, on behalf of a victim, a (1) protective order after a person is arrested for certain crimes or (2) standing criminal protective order after a person is convicted of certain

crimes. The statutes governing these orders do not require a victim to apply for the order (CGS §§ 54-1k and 53a-40e).

Orders Prohibiting Harassment of a Witness in a Criminal Case

Upon application of a prosecutorial official, a court may issue an order prohibiting the harassment of a witness in a criminal case. The court may issue a temporary restraining order if the court finds that there are reasonable grounds to believe that (1) harassment of an identified witness exists or (2) an order is necessary to prevent tampering with or intimidation of a witness. The court may issue a protective order if, after a hearing, it finds that the order is necessary to prevent tampering with or intimidation of a witness (CGS §§ 54-82q and 52-82r).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (03/31/2017)